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Remarks

Applicant has thoroughly considered the Examiner's remarks in the December 28, 2004 Office action, and respectfully request further reconsideration of the application in light of the amended claims and the following remarks. Claims 1, 18, 28, 47, and 55 have been amended by this Amendment D. Claims 1-13, 15-37, 47, 48, 50 and 55-58 are presented in the application for further examination.

Claims 1-13, 15-37, and 55-58 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,330,308 B1 to Cheston, III et al. (Cheston) in view of U.S. Patent No. 6,301,609 to Aravamudan et al. (Aravamudan) and in further view of U.S. Patent No. 5,568,539 to Bergsman et al. (Bergsman). As discussed in detail below, Cheston fails to teach or suggest an interactive voice response (IVR) system that, among other things, learns a preferred device over a period of time at which to contact an intended recipient of received voice or audio messages based on information included in a user profile as claimed and described in the present application. Applicant submits that the cited references, whether considered alone or in combination, fail to teach or suggest all of the features of applicant's claims. Thus, *prima facie* obviousness cannot be established. (See MPEP 2142 and 2143.)

To help illustrate the differences of applicant's claimed invention over the prior art applied by the Examiner, applicant points out that the claimed features of the invention not only enable a voice or other audio message to be sent to an intended recipient via either a computer device or a telephone device and to be delivered to the intended recipient in audio form via either a computer device or a telephone device, but also enable learning a preferred device over a period time at which to contact the intended recipient of received voice messages. As described in the present application, the invention employs heuristics, for example, to determine how it should attempt to contact a particular user when necessary. For instance, applicant's system can learn over time that a particular user is nearly always accessible via her mobile phone during certain hours of the day and can adjust the user's profile accordingly. (See Application page 11, paragraph 0028). To this end, amended claim 1 recites, in part, "determining, for each of the intended recipients, a preferred one of the specified communication devices by which such intended recipient should receive delivery or notification of voice messages directed to such intended recipient and updating the respective

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user profile accordingly, and "notifying the intended recipients of the received voice messages at the preferred communication devices."

In contrast, Cheston merely discloses a voice mail system that uses voice or speech recognition technology to enable a subscriber of a voice mail system to send recorded messages to an identified called party without the need of remembering the called party's number. More specifically, Cheston discloses a system that includes a voice processing unit configured for recording a called party identity, spoken by the calling party, for a recorded message, and a master control unit configured for initiating a called party telephone number query routine in response to reception of the called party identity. The master control establishes a link with an automated directory assistance system and supplies the called party identity to the automated directory assistance system to retrieve the called party telephone number. The master control unit then uses the retrieved telephone number to transfer a recorded message (e.g., voice message). Although the called party's telephone number may be retrieved from a database by the Automated Directory Assistance System via the internet, the actual transmission of the voicemail message occurs via a telephony network. (See Cheston column 9, lines 12-23). Accordingly, Cheston not only fails to teach or suggest delivering a message to a recipient via *either a computer device or a telephone device*, but also fails to teach or suggest notifying the intended recipient of the received voice messages via a preferred device determined from one or more communication devices specified in the user profile and updating the respective user profile accordingly.

The Examiner asserts that Aravamudan remedies the deficiencies of Cheston in that Aravamudan teaches notifying the intended recipients of the received voice messages according to their respective profiles including whether an intended recipient of one of the received voice messages has a presence on a widely distributed computer network at a particular time. (See office action at page 3). In addition, the Examiner asserts that Bergsman further remedies the deficiencies of Cheston because Bergsman teaches delivering the received voice messages to their intended recipients in audio form. However, Cheston, Aravamudan and Bergsman all fail to teach or suggest determining a preferred one of the specified communication devices by which such intended recipient should receive delivery or notification of voice messages and updating the respective user profile accordingly as disclosed and recited in amended claim 1. Thus, whether considered alone or in

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combination, the cited references fail to teach or suggest each and every element of claim 1. Accordingly, claim 1 is believed to be allowable over such art.

Claim 18 has been amended to recite that, the IVR system is "further configured to determine a preferred one of the one or more remote communication devices specified in the profile of the recipient and to deliver the audio message to the intended recipient at the preferred communication device." Similarly, amended claims 28 now recites "determining a preferred one of the one or more remote communication devices specified in a user profile of associated with the recipient", "updating the respective user profile accordingly", and "sending the audio file to the network interface for delivery to the recipient at the preferred communication device." Based on the foregoing remarks, claims 28 and 55 are believed to be allowable over the cited art.

Amended claim 55 recites learning a preferred device, from one or more remote devices specified in a profile of the recipient, over time at which to notify the intended recipient of the received audio message based on information included in the profile, and that the audio message is first communicated to the recipient via the learned preferred device. None of the cited references teach or suggest delivering an audio message to the recipient of the received voice message via a preferred device learned over a period of time based on information included in the user profile as claimed and described in claim 55. Accordingly, claim 55 is believed to be allowable over the cited references.

Claims 47, 48 and 50 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheston in view of Aravamudan, in view of Bergsman and in further view of U.S. Patent No. 6,233,318 to Picard et al. (Picard). As discussed above, Cheston, Aravamudan, and Bergsman fail to teach or suggest learning a preferred device, at which to notify the intended recipient of a received voice message based on information included in the profile. With respect to claim 47, the Examiner asserts that Picard teaches sending an electronic message including a hyperlink to the stored voice message, and that it would have been obvious to one of ordinary skill in the art to use the integrated messaging system of Picard in the invention of Cheston. Nevertheless, Picard fails to remedy the deficiencies of Cheston, Aravamudan, and Bergsman in that Picard does not teach or suggest determining a preferred device, from one or more remote devices specified in a profile of the recipient at

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which to notify the intended recipient of the received voice message. Accordingly, amended independent claim 47 is allowable over the cited references.

Summary and Concluding Remarks

In view of the foregoing, applicant respectfully submits that amended independent claims 1, 18, 28, 47 and 55 are allowable over the cited art. The remaining dependent claims are believed to be allowable for at least the same reasons as the independent claims from which they depend.

For the reasons noted above, Applicant respectfully submits that claims 1-13, 15-37, 47, 48, 50 and 55-58 are in condition for allowance and respectfully requests favorable reconsideration of this application. Although the prior art made of record and not relied upon may be considered pertinent to the disclosure, none of these references anticipates or makes obvious the recited invention.

The fact that Applicant may not have specifically traversed any particular assertion by the Office should not be construed as indicating Applicant's agreement therewith.

The Commissioner is hereby authorized to charge any deficiency or overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted



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